

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 26129 of 2007(I)

PETITIONER:

T.P. MATHEW,
GENERAL MANAGER, B.C.CHERUVALLY ESTATE,
POST BOX NO.2, ERUMELY P.O., KOTTAYAM,PIN-686509,
RESIDING AT THAZHATHMALAYIL, CHIRAYIRAMBU P.O.,
MARAMAN, THOTTAPPUZHASSERY VILLAGE,PATHANAMTHITTA.

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ
SRI.ANOOP JOSEPH
SRI.ANOOP.V.NAIR
SRI.ABHILASH AKBAR
SRI.T.B.SIVAPRASAD

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT OF
KERALA, DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM.
2. SUPERINTENDENT OF POLICE, KOTTAYAM.
3. DEPUTY SUPERINTENDENT OF POLICE,
KANJIRAPPALLY.
4. CIRCLE INPECTOR OF POLICE,
MANIMALA, KOTTAYAM.
5. SUB INSPECTOR OF POLICE,
MANIMALA POLICE STATION, KOTTAYAM.
6. SUB INSPECTOR OF POLICE, ERUMELY.
7. P.C. RAJAN,
CHAIRMAN, MICHABHOOMI SAMRAKSHNA SAMITI,
B.C. CHERUVALLY ESTATE, ERUMELY, KOTTAYAM.

8. C.C. BALAKRISHNA PERUMAL,
GENERAL CONVENOR, MICHABHOOMI SAMRAKSHNA SAMITI,
B.C. CHERUVALLY ESTATE, ERUMELY, KOTTAYAM.

9. K.K. BINILKUMAR,
VICE CHAIRMAN, MICHABHOOMI SAMRAKSHNA SAMITI,
B.C. CHERUVALLY ESTATE, ERUMELY, KOTTAYAM.

10. V.K.ACHUTHAN, VICE CHAIRMAN,
MICHABHOOMI SAMRAKSHNA SAMITI,
B C CHERUVALLY ESTATE, ERUMELY, KOTTAYAM.

ADDL. RESPONDENT:

11. AJIKUMAR, S/O.CHANDRANKUTTY, AGED 31 YEARS,
RESIDING AT VETTIKKANAL VEEDU, ERUMELY SOUTH,
KANJIRAPPALLY.
(ADDL.R11 IMPEADED AS PER ORDER ON IA 12246/07 DT.25.9.07)

BY ADV. SRI.R.KRISHNA RAJ-R11
GOVT. PLEADER SRI.P.A. SALIM - R1 TO R6
BY PARTY-IN-PERSON (R7 TO R10)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX (WPC 26129/2007)

PETITIONER'S EXTS.

EXT.P1 - TRUE COPY OF THE SALE DEED NO.2329 OF 2005 OF SRO, ERUMELY.

EXT.P2 - TRUE COPY OF THE NOTICE SUBMITTED BY THE RESPONDENTS.

EXT.P3 - TRUE COPY OF THE PETITION DATED 7.7.07 SUBMITTED BY THE PETITIONER TO THE RESPONDENTS 2 TO 6.

RESPONDENTS' EXTS.

EXT.R.II(a) – COPY OF THE REPORT DATED 16.12.2005.

EXT.R.II(b) – COPY OF THE JUDGMENT IN WPC 28870/06 DATED 3.11.2006.

EXT.R.II.(c) = COPY OF THE ORDER IN WPC 32187/06 DATED 21.12.2006.

EXT.R.II(d) – COPY OF THE ORDER IN WPC 13369/06 DATED 13.4.2007.

EXT.R.II(e) – COPY OF THE COUNTER FILED BY THE PANCHAYATH DATED 20.4.2007.

/TRUE COPY/

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 26129 OF 2007-I

Dated 25th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner submits, he has purchased 2263 acres of land from M/s. Harrison Malayalam Ltd, as per Ext.P1 sale deed. The respondents 7 to 10 have published Ext.P2 notice, giving a warning to the Government that if the surplus land/Government land in the possession of M/s. Harrison Malayalam Ltd., is not taken over, they will be constrained to launch direct action. On coming to know of Ext.P2, apprehending that the supporters of respondents 7 to 10 may trespass into the property covered by Ext.P1, Ext.P3 representation is filed before the Superintendent of Police and thereafter, this writ petition is filed, seeking police protection to the property covered by Ext.P1, which is called B C Cheruvally Estate.

2. The learned Government Pleader, upon instructions, submitted that the writ petition is premature and anticipatory in nature. Actually, no encroachment into the property as apprehended by the petitioner has taken

place, it is submitted.

3. The additional 11th respondent has filed a counter affidavit, pointing out that the writ petition has been filed without any bona fides. Steps are being taken to re-possess the land unauthorisedly sold by M/s.Harrison Malayalam Ltd., to the petitioner and to get over that, the present writ petition is filed. It is also alleged that the pendency of various writ petitions and the orders passed by this Court concerning the very same subject-matter have not been mentioned in the writ petition. According to the said respondent, they have been suppressed to get favourable orders from this Court. The learned counsel for the petitioner denies the above allegations, though the petitioner has not filed any reply affidavit.

4. Having regard to the facts of the case, we feel that the petitioner has not made out any case for police protection. If any strangers make encroachment into his property, the petitioner has got a remedy of filing civil suit before the concerned civil court. In view of the above position, the writ petition is dismissed without prejudice to the contentions of the

petitioner and his right to move other forums for appropriate reliefs.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/